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China, Peoples Republic of

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Law on Farm Product Quality and Safety

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Approved by:

Maurice House
U.S. Embassy

Prepared by:

Mark Petry and Wu Bugang

Report Highlights:

This report is an UNOFFICIAL translation of the law on "Farm Product Quality and Safety", which was published by the Chinese National People's Congress and took effect November 1, 2006. In a bid to improve the quality and safety of domestically produced agricultural products, the law outlines the responsibilities of each level of government in regulating domestic food quality and safety. The law has limited or no trade impact.

Includes PSD Changes: No
Includes Trade Matrix: No
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Summary

The National People's Congress (NPC) approved and issued the law on "Farm Product Quality and Safety" in April 2006 and it took effect November 1, 2006. Several recent, well-publicized food safety scares illustrated confusion regarding responsibility for food safety inspection and enforcement. In a bid to eliminate these systematic problems, the law outlines food product quality and safety responsibilities for each level of government. The new legislation also emphasizes that all producers that market a product, even small farmers, must meet basic Chinese food safety and quality criteria. The law relates to all existing standards and technical regulations, but focuses on clarifying inspection and enforcement responsibilities. Additional information on specific Chinese domestic and import food safety standards can be referenced in FAS GAIN Report CH5055.

Post does not see any trade impact resulting from this law.

BEGIN TRANSLATION

People's Republic of China

Law on Farm Product Quality and Safety

Decree No.49 of the President of the People's Republic of China

Having been approved at the 21st Session of the 10th National People's Congress on April 29th, 2006, the *Law of the People's Republic of China on Farm Product Quality and Safety* is hereby promulgated and shall enter into force as of Nov 1, 2006.

Hu Jintao,
President of the People's Republic of China
April 29th, 2006

Law of the People's Republic of China on Farm Product Quality and Safety

(Adopted at the 21st Session of the 10th National People's Congress on April 29th, 2006)

Chapter 1. General Provisions

Article 1

This law is enacted to ensure farm product quality and safety, maintain public health, and promote development of agriculture and rural economy.

Article 2

Farm products mentioned in this law refer to preliminary products originating from agriculture, covering vegetables, animals, microorganisms and their products.

Farm product quality and safety mentioned in this law refers to quality of farm products that comply with requirements for maintaining human health and safety.

Article 3

The executive departments in charge of agriculture under the People's Government at the county-level or above shall be responsible for monitoring and management of farm product quality and safety; relevant executive departments under the People's Government at the county-level or above shall be responsible for work related to farm product quality and safety under their jurisdiction.

Article 4

The People's Government at the county level or above shall incorporate management of farm product quality and safety into their plans for national economy and social development and allocate dedicated funds for work related to farm product quality and safety.

Article 5

The People's Government at the county level or above shall be responsible for integrated leadership and coordination of farm product quality and safety under their jurisdiction and take necessary measures to build and improve the farm product quality and safety service systems so as to enhance the level of farm product quality and safety.

Article 6

The executive departments in charge of agriculture under the State Council shall establish an expert committee on risk assessment for farm product quality and safety staffed by experts from relevant fields to perform risk analysis and assessment on potential hazards that may affect farm product quality and safety.

The executive department in charge of agriculture under the State Council shall take administrative measures accordingly to the risk assessment results for farm product quality and safety and report in a timely manner the risk assessment results on farm product quality and safety to relevant departments under the State Council.

Article 7

The executive department in charge of agriculture under the State Council and the executive departments under the province level, autonomous region and municipality shall publish information concerning the status of farm product quality and safety in line with their authority and responsibilities.

Article 8

The central government guides and promotes standardized production of farm products, encourages and supports production of quality farm products, and prohibits production and sale of farm products that are not in compliance with farm product quality and safety standards established by the government.

Article 9

The government supports science and technology research on farm product quality and safety, facilitates scientific management methods on quality and safety, and promotes advanced and safe production technologies.

Article 10

The People's Government at different levels and relevant departments shall strengthen propaganda about farm product quality and safety knowledge, increase awareness of the public about farm product quality and safety, provide guidance for producers and sellers of farm products to improve quality and safety management, and safeguard consumption of farm products.

Chapter 2. Farm Product Quality and Safety Standards**Article 11**

The government shall establish and perfect the mechanism for farm product quality and safety. Farm product quality and safety standards are mandatory technical regulations.

Formulation and publication of farm product quality and safety standards shall be in line with provisions of relevant laws and administrative regulations.

Article 12

In formulating farm product quality and safety standards, it is necessary to take into full account the results of risk assessment on farm product quality and safety and listen to opinions of farm product producers, sellers and consumers to ensure safe consumption.

Article 13

Farm product quality and safety standards shall be amended in a timely manner along with the development level of science and technologies and the needs of farm product quality and safety.

Article 14

Farm product quality and safety standards shall be implemented by the executive departments in charge of agriculture in consultation with relevant departments.

Chapter 3. Farm product origin

Article 15

For the sake of protecting farm product quality and safety, if the executive departments in charge of agriculture under the People's Government at the county level or above believe that certain areas are not suitable for producing specific farm products due to variety properties and the status of toxic and harmful substances in air, soil, and water within the production areas, they shall identify and make public the prohibited areas after being ratified by government at the corresponding level. Specific measures will be formulated by the executive department for agriculture of the State Council in consultation with the State Council's executive department in charge of environment protection.

Adjustment of areas prohibited from production of farm products shall be made in accordance with procedures of the preceding paragraph.

Article 16

People's government at the county level or above shall take actions to strengthen the construction of agricultural production bases and improve conditions for production of farm products.

The executive departments in charge of agriculture under the People's Government at the county level or above shall take actions to push the construction of model areas of standardized production, demonstration farms, livestock and poultry breeding farms and epidemic-free zones to facilitate and ensure farm product quality and safety.

Article 17

It is strictly prohibited to produce, fish or collect edible farm products or establish agricultural production bases in areas where the amount of toxic and hazardous substances exceeds the specified levels.

Article 18

It is strictly prohibited to discharge or pour wastewater, waste gas, solid wastes or other toxic and hazardous substances to agricultural production areas in violation of laws and regulations.

Water used for agricultural production and solid articles used as fertilizers shall comply with standards established by the government.

Article 19

Producers of farm products shall make proper use of chemical products such as fertilizers, pesticides, veterinary drugs and thin film to prevent pollution in agricultural production areas.

Chapter 4. Production of Farm Products

Article 20

The executive department in charge of agriculture under the State Council as well as executive departments in charge of agriculture under the People's Government at the provincial level, autonomous region and municipality shall develop production technical requirements and operation specifications to ensure farm product quality and safety. The executive departments in charge of agriculture under the People's Government at the county level or above shall strengthen guidance on production of farm products.

Article 21

Licensing systems shall be adopted in accordance with provisions of laws and administrative regulations for pesticides, veterinary drugs, feed, feed additives, fertilizers and veterinarian instruments that may affect farm product quality and safety.

The executive department in charge of agriculture under the State Council as well as executive departments in charge of agriculture under the People's Government at the level of the province, autonomous region and municipality shall perform monitoring and random inspections on products devoted to agricultural production such as pesticides, veterinary drugs, feed, feed additives, and fertilizers that may affect farm product quality and safety on a regular basis and publish the results of random inspections.

Article 22

The executive departments in charge of agriculture under the People's Government at the county level or above shall strengthen their management and guidance on use of products devoted to agricultural production, establish and perfect safe use systems of products devoted to agricultural production.

Article 23

Institutions engaged in scientific research and education of agriculture and promotion of agricultural technologies shall strengthen training of farm product producers in quality and safety knowledge and skills.

Article 24

Farm product manufacturing enterprises and specialized farmer cooperative organizations shall create farm product production records accurately, which shall contain the following items:

- 1) Name, source, usage, consumption, effective and expiry dates of products devoted to agricultural production.
- 2) Occurrence and prevention of animal epidemic diseases, plant diseases, pests and weeds.
- 3) The date of harvesting, slaughtering or fishing.

Farm product production records shall be kept for two years and it is strictly prohibited to forge farm product manufacturing records.

The government encourages other farm product producers to create farm product production records.

Article 25

Farm product producers shall, in accordance with requirements of laws, administrative regulations and the executive department in charge of agriculture under the State Council, make reasonable use of products devoted to agricultural production, strictly comply with requirements for safe interval and withdrawal period of products devoted to agricultural production to prevent from damaging farm product quality and safety.

It is strictly prohibited to use products devoted to agricultural production banned by the government in the course of production of farm products.

Article 26

Farm product manufacturing enterprises and specialized farmer cooperative organizations shall inspect the status of farm product quality and safety on their own or by authorized specialized institutions; any farm products found not to be in compliance with farm product quality and safety standards in inspections shall not be sold.

Article 27

Specialized farmer cooperative organizations and farm product associations shall provide technical services to their members in a timely manner, establish and perfect farm product quality and safety management mechanisms, perfect farm product quality and safety control systems and strengthen self-discipline and management.

Chapter 5. Packaging and Labeling of Farm Products

Article 28

Any farm products sold by farm product manufacturing enterprises, specialized farmer cooperative organizations as well as units or individuals engaged in purchase of farm products that require packaging and labeling must be packaged or labeled before marketing. The packages or labels shall indicate the product name, production area, producer, production date, shelf life, and quality grade as well as name of the additive used (if any) in accordance with relevant regulations. The executive department in charge of agriculture under the State Council shall develop specific regulations.

Article 29

Materials such as freshness agents, preservatives, and additives used in packaging, preservation, storage and transportation of farm products shall comply with relevant mandatory technical regulations established by the government.

Article 30

In case of genetically modified farm products, they should be labeled in accordance with relevant regulations governing the safety management of agricultural GMOs.

Article 31

Animals, plants and their products required by law to be quarantined shall be attached with a quarantine label or certificate.

Article 32

Farm products being sold must comply with farm product quality and safety standards and producers may apply for use of wholesome food labels. If the qualities of the farm products comply with standards of quality farm products as established by the government, the producers may apply for use of corresponding farm product quality labels.

It is strictly prohibited to fraudulently use farm product quality labels specified in the preceding paragraph.

Chapter 6. Monitoring and Inspection

Article 33

Farm products coming from any of the following circumstances shall not be sold:

- 1) Contain pesticides, veterinary drugs or other chemical substances banned by the government;
- 2) Residues of chemical substances such as pesticides, veterinary drugs or toxic and hazardous substances such as heavy metals do not comply with quality and safety standards;
- 3) Contain pathogens, microorganisms or biotoxins that do not comply with quality and safety standards;
- 4) Use materials such as freshness agents, preservatives and additives that do not comply with relevant mandatory technical regulations established by the government;
- 5) Fail to comply with other quality and safety standards.

Article 34

The government establishes farm product quality and safety monitoring systems. The executive departments in charge of agriculture under the People's Government at the county level or above shall establish and implement farm product quality and safety monitoring plans and perform monitoring and random inspections on farm products being produced or marketed in accordance with the requirements for maintaining farm product quality and safety. The executive department in charge of agriculture under the State Council or the executive departments in charge of agriculture under the People's Government at the level of the province, autonomous region and municipality shall publish the results of monitoring and random inspections under their jurisdiction.

Farm product quality and safety inspection institutions having met the requirements of article 35 of this law shall perform the monitoring, random inspections and testing. No inspection fees shall be collected and the samples taken shall not exceed the number specified by the executive department in charge of agriculture under the State Council. Lower level executive departments in charge of agriculture shall no longer inspect any farm products that have been monitored and randomly inspected by higher-level agriculture departments.

Article 35

Farm product quality and safety inspection shall take full advantage of existing qualified inspection institutions.

Institutions engaged in farm product quality and safety inspection must have corresponding inspection conditions and capabilities and be verified by the executive departments in charge of agriculture under the People's Government at the provincial level or their authorized agencies. The executive department in charge of agriculture under the State Council shall develop specific methods.

Farm product quality safety inspection institutions shall pass metering certification in accordance with requirements of laws.

Article 36

Farm product producers and sellers who disagree with the results of supervision and random inspection may request a re-inspection within 5 days after receipt of the inspection results by the executive department in charge of agriculture that perform farm product quality and

safety monitoring and inspection or a higher level executive department in charge of agriculture.

In case the inspected individual disagrees with the inspection results when farm product quality safety supervision and random inspection are performed using a rapid inspection method recognized by the executive department in charge of agriculture under the State Council and other relevant departments, he or she may request a re-inspection within 4 hours after receipt of the inspection results. The re-inspection shall not use rapid inspection methods.

If damages occur to the individual being inspected due to wrong inspection results, the inspector shall be held responsible for compensation according to law.

Article 37

Farm product wholesale markets shall establish or entrust a farm product quality and safety inspection institution to perform random inspection on quality and safety of farm products being sold in the markets; in case of any farm products found not to be in compliance with farm product quality and safety standards, the wholesale market shall make the seller stop selling immediately and report to the executive departments in charge of agriculture.

Farm product marketing enterprises shall establish and perfect an inspection and acceptance system for purchased farm products; farm products that have been inspected and found not to be in compliance with farm product quality and safety standards shall not be marketed.

Article 38

The government encourages institutions and individuals to monitor farm product quality and safety. Any institution or individual shall have the right to report, reveal and accuse any acts that violate this law. The relevant departments shall handle such reporting, revelations and accusations in a timely manner.

Article 39

The executive departments in charge of agriculture under the People's Government at the county level or above shall conduct field inspections on farm products being produced or marketed when performing farm product quality and safety monitoring and inspection, investigate on farm product quality and safety, review and duplicate records and other documents related to farm product quality and safety, and have the right to seal up and detain the farm products that have been inspected and found not to be in compliance with farm product quality and safety standards.

Article 40

In case of occurrence of farm product quality and safety accidents, relevant institutions or individuals shall take control measures and report to the executive departments in charge of agriculture under the People's Government at the town or county level in a timely manner; the latter shall immediately handle and report to the relevant departments or the People's Government at higher level. In case of occurrence of major farm product quality and safety accidents, the executive departments in charge of agriculture shall report to the corresponding food and drug monitoring and administration department in a timely manner.

Article 41

If the executive departments in charge of agriculture under the People's Government at the county level or above identify any farm products coming from any of the circumstances specified in article 33 of this law while performing monitoring and inspection on farm product quality and safety, they shall find out the responsible person and handle according to law or

provide handling opinions based on responsibility and traceability mechanism for farm product quality and safety.

Article 42

Imported farm products must be inspected in accordance with farm product quality and safety standards established by the government; in the absence of such farm product quality and safety standards, they shall be established in a timely manner and the products shall be inspected by reference to relevant foreign standards designated by relevant departments before such standards are in place.

Chapter 7. Legal Liabilities

Article 43

Farm product quality and safety monitoring and management personnel failing to perform their duties in accordance with laws or abusing their powers shall be given administrative punishment.

Article 44

In the event that a farm product quality and safety inspection institution forges inspection results, it shall be ordered to correct its act and illegal earnings shall be confiscated. In addition, a fine of between RMB 50,000 and RMB 100,000 shall be imposed on the institution and a fine of between RMB 10,000 and RMB 50,000 imposed on personnel with direct responsibilities and other responsible persons. If the case is serious, its inspection qualification shall be revoked; and if damages are caused, the institution shall be held responsible for compensation according to law.

In the event any damages due to false inspection results produced by a farm product quality and safety inspection institution, the institution shall be held responsible for compensation according to law; if there are serious damages, the inspection qualification of the institution shall be revoked.

Article 45

Any institution or individual who discharges or pours waste water, waste gas, solid wastes or other toxic/hazardous substances to the agricultural production areas in violation of laws and regulations shall be given punishment in accordance with laws and regulations governing environmental protection; if damages are caused, the institution or individual shall be held responsible for compensation according to law.

Article 46

In case that products devoted to agricultural production are used against laws, administrative regulations and stipulations of the executive department in charge of agriculture under the State Council, penalties shall be imposed in accordance with relevant laws and administrative regulations.

Article 47

In case that farm product manufacturing enterprises, specialized farmer cooperative organizations fail to create farm product manufacturing records or forge farm product manufacturing records, they shall be ordered to correct their acts within a specified time frame; in case no corrective measures have been taken in due time, a fine of less than RMB 2,000 may be imposed.

Article 48

In case that the farm products sold are not packaged or labeled in accordance with article 28 of this law, the offender shall be ordered to take corrective measures within a specified time

frame; in case no corrective measures have been taken in due time, a fine of less than RMB 2,000 may be imposed.

Article 49

If the freshness agents, preservatives and additives being sold are not in compliance with relevant mandatory technical regulations as stated in item 4 of article 33 of this law, the offender shall be ordered to stop selling such products, the polluted farm products shall be given pollution-free treatment; in case the products that can not be given pollution-free treatment shall be destroyed under supervision and the illegal earnings shall be confiscated with a fine between RMB 2,000 and RMB 20,000.

Article 50

In the event that farm products sold by farm product manufacturing enterprises and specialized farmer cooperative organizations come from circumstances in item 1 through item 3 or item 5, as specified in article 33 of this law, such sales must be stopped and farm products already sold shall be recalled. Farm products being illegally sold shall be given pollution-free treatment or destroyed under supervision. The illegal earnings shall be confiscated and a fine between RMB 2,000 and RMB 20,000 shall be imposed.

In case that farm products sold by farm product marketing enterprises come from circumstances specified in the preceding paragraph, the enterprises shall be handled or penalized accordingly.

In the event that farm products sold in wholesale markets come from circumstance specified in item 1, the illegally sold products shall be handled and seller be punished accordingly.

In the event that a wholesale market violates the requirements of item 1, article 37 of this law, it shall be ordered to rectify the acts and be fined between RMB 2,000 and RMB 20,000.

Article 51

In case that any farm product quality label is used fraudulently as prescribed in article 32 of this law, the offender shall be ordered to rectify his or her act and illegal earnings shall be confiscated with a fine between RMB 2,000 and RMB 20,000.

Article 52

The handling and penalties specified in article 44, articles 47 through 49, items 1 and 4 of article 50 and article 51 shall be determined by the executive departments in charge of agriculture under the People's Government at the county level or above; the handling and penalties specified in items 2 and 3 of article 50 shall be determined by the executive departments in charge of industry and commerce.

In case there are other laws governing administrative punishment and law enforcing institutions, these laws shall prevail, however, repeated penalties shall not be imposed on the same illegal act.

Article 53

In case a violation of this law constitutes a crime, the offender shall be prosecuted for criminal responsibilities.

Article 54

In case of damages occur to consumers due to production and marketing of farm products listed in article 33 of this law, the producer or marketer shall be held responsible for compensation according to law.

If wholesale markets sell farm products prescribed in the proceeding paragraph, consumers may claim for compensation by the market; if the responsibilities fall on the producer or marketer, the wholesale market has to claim for compensation by the producer or seller. Consumers may also claim for compensation directly from the producer or seller of the farm products.

Chapter 8. Supplementary Provisions

Article 55

Management of pig slaughtering shall be implemented in accordance with relevant regulations of the government.

Article 56

This law shall enter into force as of November 1, 2006.

END TRANSLATION